

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 02-0520P**

**Gross Income Tax**

**For Calendar Year Ended December 31, 2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the proposed penalty assessment for the late payment of its income tax. The due date of the return was April 15, 2001. Taxpayer filed its return late with payment of fifty-one percent (51%) of its tax liability. The Department issued its late payment assessment on July 8, 2002.

Taxpayer filed a penalty protest letter dated July 31, 2002 that states that it had a change in ownership in 1999 and the year 2000 was the first full-year tax return that it prepared. At the time the 2000 Indiana returns were due, the 1999 returns were not yet finalized. Taxpayer avers that it believed it would have a substantial net operating loss in 2000 and fully expected the \$29,000 to cover its liability.

The taxpayer was also issued an underpayment penalty on July 29, 2002 but failed to respond to the assessment timely.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalty assessed and states that it had not finalized the 2000 return because the 1999 return had not been finalized. It requests a penalty waiver.

Taxpayer did not make payment by the original due date of the return as required under IC 6-8.1-10-2.1 (a)(2). The penalty is ten percent (10%) of the amount of the tax not paid, if the person fails to pay the full amount of tax shown on the person's return on or before the due date for the return or payment.

Taxpayer made payment after the due date of the return and has not provided reasonable cause to allow the Department to waive the penalty.

Taxpayer, on October 28, 2002 requests a penalty waiver because it had not received a response to its previous notice dated July 31, 20002. The Notice Number 02004864081 dated July 29, 2002, however, is the underpayment of estimated income taxes in the amount of \$2,989.98. Taxpayer did not protest the penalty timely and has provided no reasons why it failed to pay estimated taxes.

### **FINDING**

Taxpayer's protest is denied.